

GAHC010023732023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/387/2023

ASAIID ALI @ ASHID ALI
S/O- MD. SAFIQUIRE RAHMAN, R/O- MATIKHOLA, P.S. MURAJHAR, PIN-
782439, DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. R C DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 22-03-2023

Heard Mr. R. C. Das, learned counsel for the applicant. Also heard K. K. Das, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 438 of the Code of Criminal Procedure, 1973, praying for granting pre-arrest bail to the accused/applicant in connection with Kharoni P.S. Case No.115/2021, registered under Section 406 of the Indian Penal Code.

Case diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicant, Mr. R. C. Das that the accused/applicant's earlier bail prayer was rejected by this Court vide order dated 24.02.2022. Further, this anticipatory application is filed by the accused/applicant seeking pre-arrest bail, stating that he is not at all involved in the said offence and his earlier bail prayer was rejected only on the ground that the vehicle was not recovered.

The learned counsel for the applicant also submitted that the other co-accused, named Montaz Ali, is already enlarged on bail by the Court of learned Munsif, Karbi Anglong, vide order dated 21.12.2021, observing that the IO failed to furnish the charge-sheet within statutory period of 60 days. As the case of the applicant also stands in the same footing, accordingly, his bail prayer may

be considered.

The learned counsel for the applicant submitted that actual is fact that on the day of the incident the said vehicle was snatched by the Naga Insurgency Group from the accused/applicant in Patkai at Dimapur. Unfortunately, he did not inform the police regarding such incident as well as about threatening of the said group. Further, it is also submitted that the applicant has not committed any offence as alleged in the FIR and further, prays to grant pre-arrest bail and also states that he will cooperate the investigating agency as and when required, if, the pre-arrest bail is granted to him.

In this context, Mr. K. K. Das, learned Additional Public Prosecutor submits that the accused/applicant earlier bail prayer was rejected by this court after perusal of the Case Diary and there is no new development in the case records nor the vehicle has been recovered till date. More so, the accused/applicant did not disclose about the fact of snatching of vehicle by the said group. But, the present application has been filed on the ground that the vehicle was snatched by the said insurgency group while he was proceeding to Dimapur. So, considering the rejection order as well as incriminating materials available in the case diary, he accordingly raises objections in granting bail to the present accused/applicant.

After hearing the submission made by the learned Advocates of both sides as well as perusing the case diary and the earlier bail rejection order passed by this Court, I find that there is no new development to be considered and to grant the pre-arrest bail to the present accused/applicant. More so, the co-

accused was granted bail on the ground of length of detention and also by considering the judgment of the Hon'ble Apex Court in the case of ***Rakesh Kr. Paul vs. State of Assam, reported in 2017 15 SSC 67.*** But, the case of the present petitioner is totally different and custodial interrogation of the accused/applicant may be necessary to unearth some more facts and accordingly, I am of the view that this is not a fit case, where, the privilege of pre-arrest bail can be granted to the accused/applicant at this stage and accordingly, the same stands rejected.

In view of above, this Anticipatory Bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant